

STATE OF MICHIGAN  
IN THE SUPREME COURT

GRANT BAUSERMAN, KARL WILLIAMS,  
TEDDY BROE, individually and on behalf  
of similarly situated persons,

Supreme Court No. 156389

Court of Appeals No. 333181

Plaintiffs-Appellants

Court of Claims No. 15-202-MM

v

MICHIGAN UNEMPLOYMENT  
INSURANCE AGENCY,

Defendant-Appellee.

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**SUPPLEMENTAL AUTHORITY**

Pursuant to MCR 7.312(I), the Michigan Unemployment Insurance Agency calls this Court's attention to its January 24, 2018 order in *Henry v Dow Chemical Company*, 2018 WL 561271 (Mich 2018) (Docket No. 156128).<sup>1</sup>

Appellants make the *Henry* order applicable to the analysis of this case because of the supplemental authority they filed on January 26, 2018—*Mays, et al v Snyder, et al*, \_\_ Mich App \_\_ (2018) (Docket No. 335555). Appellants assert that the *Mays* decision “provides important guidance” on the primary issue before this Court on appeal: whether Appellants timely satisfied the requirements of MCL 600.6431(3). (Appellants' Supp Authority at 1.) They believe that the *Mays* majority opinion supports their argument (rejected by the Court of Appeals below) that their claims did not accrue until they suffered economic harm. (*Id.*) But this Court recently rejected that argument and the authority relied on for it.

*Mays* held that “a claim does not accrue until each element of the cause of action, including some form of damages, exists.” *Mays*, slip op at 9 (citing *Henry v Dow Chem Co*, 319 Mich App 704, 720 (2017)). But this Court's order in *Henry* reversed that part of the *Henry* opinion relied on by the *Mays* majority. In fact, this Court adopted *Henry*'s dissenting opinion, which held (like the Court of Appeals below) that a claim accrues when the harm on which it is based occurs, not when economic damage results. *Henry*, 319 Mich App at 735-736 (GADOLA, J., dissenting).

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<sup>1</sup> Orders of this Court constituting a final disposition of an application for leave to appeal and containing a concise statement of both the applicable facts and reasons supporting the decision are binding precedent. *DeFrain v State Farm Mut Auto Ins Co*, 491 Mich 359, 369-370 (2012).

Respectfully submitted,

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